

TOM E. ROESSER 3241-0  
KATHERINE G. LEONARD 5576-0  
Carlsmith Ball LLP  
Suite 2200 ASB Tower  
1001 Bishop Street  
PO Box 656  
Honolulu, Hawaii 96809-0656  
Telephone: (808) 523-2500  
Facsimile: (808) 523-0842  
troesser@carlsmith.com; kleonard@carlsmith.com

BRUCE BENNETT (Admitted Pro Hac Vice)  
SIDNEY P. LEVINSON (Admitted Pro Hac Vice)  
JOSHUA M. MESTER (Admitted Pro Hac Vice)  
JOHN L. JONES, II (Admitted Pro Hac Vice)  
HENNIGAN, BENNETT & DORMAN LLP  
601 South Figueroa Street, Suite 3300  
Los Angeles, California 90017  
Telephone: (213) 694-1200  
Facsimile: (213) 694-1234  
bennettb@hbdlawyers.com; levinsons@hbdlawyers.com;  
mesterj@hbdlawyers.com; jonesj@hbdlawyers.com

Counsel for Joshua Gotbaum,  
Chapter 11 Trustee for Hawaiian Airlines, Inc.

WAGNER CHOI & EVERS  
JAMES A WAGNER  
CHUCK C. CHOI  
745 Fort Street, Suite 1900  
Honolulu, Hawaii 96813  
Telephone: (808) 533-1877  
jwagner@wcelaw.com;  
cchoi@wcelaw.com

SCOTT L. HAZAN  
BRETT H. MILLER  
LORENZO MARINUZZI  
OTTERBOURG, STEINDLER,  
HOUSTON & ROSEN, P.C.  
230 Park Avenue  
New York, New York 10169  
Telephone: (212) 661-9100  
shazan@oshr.com;  
bmiller@oshr.com  
lmarinuzzi@oshr.com

Counsel for the Official Committee of Unsecured  
Creditors

SIMON KLEVANSKY  
GELBER, GELBER, INGERSOLL & KLEVANSKY  
Topa Financial Center, Suite 1400,  
745 Fort Street  
Honolulu, HI 96813-3823  
Telephone: (808) 524-0155  
Sklevansky@ggik.com

JEFFERY C. KRAUSE  
MICHAEL GOLDSTEIN  
ERIC D. WINSTON  
STUTMAN, TREISTER & GLATT P.C.  
1901 Avenue of the Stars, Suite 1200  
Los Angeles, CA 90067  
Telephone: (310) 228-5600  
jkrause@stutman.com  
mgoldstein@stutman.com  
ewinston@stutman.com

Counsel for Hawaiian Holdings, Inc., HHIC, Inc.,  
AND RC AVIATION LLC

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF HAWAII

In re	)	Case No. 03-00817
	)	
	)	Chapter 11
HAWAIIAN AIRLINES, INC., a Hawaii	)	
corporation,	)	<u>Hearing</u>
	)	Date: March 10, 2005
	)	Time: 9:30 a.m.
Debtor.	)	Judge: Hon. Robert J. Faris
	)	

---

**FINDINGS OF FACT AND CONCLUSIONS OF LAW RE THIRD  
AMENDED JOINT PLAN OF REORGANIZATION FILED BY CHAPTER  
11 TRUSTEE, THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS, HAWAIIAN HOLDINGS, INC., HHIC, INC., AND RC  
AVIATION LLC, DATED AS OF MARCH 11, 2005**

**WHEREAS**, Joshua Gotbaum, Chapter 11 Trustee (the "Trustee") for Hawaiian Airlines, Inc., a Hawaii corporation ("Debtor"), The Official Committee of Unsecured Creditors (the "Committee"), Hawaiian Holdings, Inc. ("HHI"), HHIC, Inc. ("HHIC"), and RC Aviation LLC ("RC Aviation," and together with HHI and HHIC, the "HHI Parties" and together with the Trustee and the Committee, the "Joint Plan Proponents"), as "proponents of the plan" within the meaning of section 1129 of title 11, United States Code (the "Bankruptcy Code"), filed the "Third Amended Joint Plan Of Reorganization Filed By Chapter 11 Trustee, The Official Committee Of Unsecured Creditors, Hawaiian Holdings, Inc., HHIC, Inc., And RC Aviation LLC, Dated As Of March 11, 2005" (the "Joint Plan") and the "Second Amended Disclosure Statement For The Second Amended Joint Plan Of Reorganization Filed By Chapter 11 Trustee, The Official Committee Of Unsecured Creditors, Hawaiian Holdings, Inc., HHIC, Inc., And RC Aviation LLC, Dated As Of October 4, 2004" (the "Disclosure Statement") in the above-

captioned chapter 11 case (the "Chapter 11 Case");<sup>1</sup> and

**WHEREAS**, on October 6, 2004, the Bankruptcy Court entered an order, as amended on October 7, 2004 and October 28, 2004 (the "Solicitation Order") that, among other things, (a) approved the Disclosure Statement under Bankruptcy Code section 1125 and Rule 3017 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (b) approved various procedures with respect to the hearing to consider confirmation of the Plan (the "Confirmation Hearing") (c) approved the form and method of notice of the Confirmation Hearing (the "Confirmation Hearing Notice"), and (d) established certain procedures for soliciting and tabulating votes with respect to the Plan; and

**WHEREAS**, in accordance with paragraph 3.a. of the Solicitation Order, (i) the Disclosure Statement, (ii) the Confirmation Hearing Notice, and (iii) with respect to those creditors in classes entitled to vote under the Plan and the Solicitation Order (x) a ballot and return envelope (such ballot and envelope being referred to as a "Ballot"), and (y) a letter from the Chapter 11 Trustee, were transmitted as set forth in the Affidavit of Service of Karen Petriano, sworn to on October 20, 2004 (the "Petriano Affidavit"), and such service is adequate and proper as provided by Bankruptcy Rule 3017(d); and

**WHEREAS**, in accordance with paragraph 3.b. of the Solicitation Order, the Abbreviated Confirmation Hearing Notice (as defined in the Solicitation Order) was transmitted as set forth in the Petriano Affidavit, and such service is

---

<sup>1</sup> Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the Joint Plan. Any term used in the Joint Plan or this Confirmation Order that is not defined in the Joint Plan or this Confirmation Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

adequate and proper as provided by Bankruptcy Rule 3017(d); and

**WHEREAS**, in accordance with Paragraph 3.c of the Solicitation Order, the Publication Notice (as defined in the Solicitation Order) was published as set forth in the following affidavits of publication attesting to such publication in accordance with the Solicitation Order as set forth in the Petriano Affidavit; and

**WHEREAS**, on December 10, 2004, the Joint Plan Proponents filed the Joint Plan Appendix with respect to the Joint Plan, which may be further amended from time to time; and

**WHEREAS**, the Joint Plan Proponents filed the Declaration of Jeffrey S. Stein Of The Garden City Group, Inc. Certifying the Methodology For The Tabulation Of Votes On And Results On Voting With Respect To The Second Amended Plan Of Reorganization sworn to on December 21, 2004, attesting and certifying the method and results of the ballot tabulation for the Classes of Claims and Interests entitled to vote to accept or reject the Joint Plan (as supplemented, corrected, or amended on March 3, 2005, the "Voting Report"); and

**WHEREAS**, as set forth on the annexed Exhibit "A," seven objections or purported objections to confirmation of the Joint Plan, were filed and served (the "Objections"); and

**WHEREAS**, certain of the Objections have been withdrawn or partially resolved on the terms and conditions described on the record of the Confirmation Hearing or memorialized in the Joint Plan or the Confirmation Order (collectively, the "Resolved Objections"), and the remaining Objections are overruled on the merits pursuant to this Confirmation Order; and

**WHEREAS**, various expert reports, declarations and exhibit lists were filed and served by one or more parties objecting to Confirmation of the Joint Plan ("Plan Objectors") (the "Opposition Evidence"); and

**WHEREAS**, the Joint Plan Proponents filed and served the declarations of Joshua Gotbaum, W. Stephen Jackson, Karen Berry, Jason Reese, Randall Jenson, and exhibit lists (the "Confirmation Evidence"); and

**WHEREAS**, on March 3, 2005, the Joint Plan Proponents filed and served an omnibus response to the Objections (the "Response"); and

**WHEREAS**, the Confirmation Hearing was originally scheduled for January 25, 2005, was continued to February 8, 2005, further continued to February 28, 2005, and further continued to March 10, 2005, each time upon announcement in open court in accordance with the Notice of the Confirmation Hearing, and came on for hearing on March 10 and 11, 2005, at which time the Court considered the evidence presented and the arguments of counsel; and

**WHEREAS**, as reflected in the transcript for the Confirmation Hearing, after consideration of the testimony presented and the arguments made, certain evidence offered in opposition to confirmation of the Joint Plan was not admitted for the reasons stated on the record at the Confirmation Hearing, including, without limitation, the "expert testimony" offered by the Plan Objectors was stricken as the proposed expert declarants did not appear at the Confirmation Hearing and the declarations submitted by Mr. Konop were withdrawn;

**NOW, THEREFORE**, based upon the Bankruptcy Court's review of the Voting Report, Objections, Opposition Evidence, Confirmation Evidence, Response; and upon (a) all the evidence proffered or adduced at, memoranda and pleadings filed in connection with, testimony presented in connection with, and

arguments of counsel made at, the Confirmation Hearing; and (b) the entire record of this Chapter 11 Case; and after due deliberation thereon; and good cause appearing therefore:

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **IT IS HEREBY FOUND AND DETERMINED THAT:<sup>2</sup>**

#### **Jurisdiction And Venue**

1. This Bankruptcy Court has jurisdiction over the Chapter 11 Case pursuant to sections 157 and 1334 of title 28 of the United States Code. Venue is proper pursuant to sections 1408 and 1409 of title 28 of the United States Code. Confirmation of the Joint Plan is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L), and this Bankruptcy Court has exclusive jurisdiction to determine whether the Joint Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

#### **Evidence And Burden Of Proof**

2. This Bankruptcy Court takes judicial notice of the docket of the Chapter 11 Case maintained by the Clerk of the Bankruptcy Court and/or its duly-appointed agent, including, without limitation, all pleadings and other documents filed, all orders entered, and evidence and argument made, proffered, or adduced at the hearings held before the Bankruptcy Court during the pendency of the Chapter 11 Case.

3. The Joint Plan Proponents have the burden of proving the elements of sections 1129(a) of the Bankruptcy Code by a preponderance of evidence.

---

<sup>2</sup> Pursuant to Bankruptcy Rule 7052, findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, when appropriate.

## **Notice And Solicitation**

4. The Disclosure Statement, including a copy of the Joint Plan, the Ballots, the Solicitation Order, and the Confirmation Hearing Notice, which were transmitted and served as set forth in the Petriano Affidavit, were transmitted and served in compliance with the Solicitation Order and the applicable Bankruptcy Rules, and such transmittal and service were adequate and sufficient, and no other or further notice is or shall be required.

5. Notice of the Confirmation Hearing was given in accordance with the Solicitation Order and the applicable Bankruptcy Rules, and no other or further notice is or shall be required.

6. Votes to accept and reject the Joint Plan have been solicited and tabulated fairly, in good faith, and in a manner consistent with the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Order.

## **RC Aviation**

7. On June 11, 2004, RC Aviation irrevocably purchased 10,000,000 shares of the common stock of HHI from AIP, LLC pursuant to a Stock Purchase Agreement. The purchase price for that stock was \$4.14 per share and on June 11, 2005, RC Aviation wire transferred to AIP the sum of \$41,400,000. No option to repurchase the stock was granted to AIP or any of its affiliates.

8. The stock certificate issued to RC Aviation contains legends indicating that the shares acquired by RC Aviation were restricted. Upon the acquisition of these shares, RC Aviation became an affiliate of HHI. RC Aviation



agreed to the legend on these shares based on its understanding that they are restricted shares.

9. On or about July 26, 2004, HHI irrevocably sold to Donald Carty ("Carty") 351,062 shares of common stock for a cash contribution of \$2,000,000. These were newly issued shares in exchange for which HHI received the payment of the cash purchase price. Because these were newly issued shares that were in a private placement that were not registered, they, too, were restricted shares. HHI actually received from Carty the sum of \$2,000,000 as payment in full for the purchase price of these shares.

### **Negotiation Of The Joint Plan**

10. Before June 11, 2004, HHI had executed a confidentiality agreement with the Trustee and had commenced efforts to develop a plan of reorganization for the Debtor. HHI and RC Aviation engaged in substantial due diligence, including reviewing documents provided by the Trustee and engaging in discussions and negotiations with the Trustee, the Committee, and certain of the Debtor's major creditors and lessors.

11. As described in the Disclosure Statement and the Gotbaum Declaration, based upon the procedures established by the Bankruptcy Court for the submission of plans of reorganization, the Trustee engaged in a comprehensive process relating to the solicitation of interests in, and the development of, the plans of reorganization for the Debtor.

12. After June 11, 2004, HHI proposed to the Trustee and the Committee a plan of reorganization that separately classified Lease Related Claims from other general unsecured claims, because RC Aviation believed it was the best

way to structure a plan that would: (i) allow the greatest possible cash distribution to most creditors; (ii) pay the large Lease Related Claims a combination of cash plus common stock or long-term notes (and thus preserve cash); (iii) preserve the value of HHI's equity interest in the Debtor; and (iv) avoid overleveraging the post-emergence Debtor.

13. On August 26, 2004, the Trustee and the HHI Parties entered into a Restructuring Support Agreement under which the Trustee selected HHI, HHIC, and RC Aviation as the party whose proposal was preferred when compared with all others previously made, and in the judgment of the Trustee was in the best interest of the estate. The Committee agreed to support the HHI, HHIC, and RC Aviation proposal and joined in the Joint Plan.

14. Under the Restructuring Support Agreement, HHI and RC Aviation made certain funding and other commitments to provide the financing necessary to make all distributions required under the Joint Plan and to assure that the Reorganized Debtor will have the Minimum Cash Balance on the Effective Date of the Joint Plan.

15. When the essential terms of the Joint Plan had been agreed to between the Trustee and HHI and RC Aviation, the Trustee consented to the request of RC Aviation to purchase the Ansett Claim, but required that such purchase could not be closed until the Restructuring Support Agreement had been executed. On Friday, August 23, 2004, RC Aviation and Ansett entered into the Ansett Claim Assignment pursuant to which Ansett assigned the Ansett Claim to RC Aviation.

16. At the same time RC Aviation agreed to buy the Ansett Claim and the Trustee consented to RC Aviation's purchase of the Ansett Claim, RC Aviation and the Trustee were finalizing the Restructuring Support Agreement pursuant to which they agreed to jointly propose the Joint Plan that provided for the treatment described below for each class of unsecured claims.

17. The Trustee conditioned his willingness to agree on the terms of a plan on the HHI Parties agreeing, among other things, to propose a plan that allowed general unsecured creditors (excluding Lease Related Claims) to elect to receive 100% of the allowed amounts of their claims in cash on the Effective Date. The HHI Parties agreed, and on August 26, 2004, the HHI Parties and the Trustee executed the Restructuring Support Agreement. The Committee agreed the next day to become a plan proponent. On August 27, 2004, RC Aviation consummated the purchase of the Ansett Claim at a price negotiated at arm's-length based on 75% of the amount of the Ansett Claim. RC Aviation thereafter filed the Ansett Claim Transfer Notice, which disclosed that Ansett was transferring the Ansett Claim to RC Aviation. RC Aviation did not agree to provide Ansett any consideration that has not been disclosed to this Court.

18. In addition to purchasing the Ansett Claim, RC Aviation subsequently purchased the Boeing Claim in the allowed amount of \$66,500,000 in order to facilitate a global settlement with Boeing. Boeing, the HHI Parties, and the Trustee negotiated two critical issues: (a) modification and assumption of the remaining aircraft leases between the Debtor and Boeing on terms favorable to the estate, including significant rent reductions designed to allow the Debtor to have a competitive cost structure prospectively, and (b) determination of the allowed amount of Boeing's claims against the estate, including claims arising from the

concessions that Boeing granted under the Assumed Leases. After intense negotiations, Boeing agreed to reductions in rent and assumption of the Boeing Assumed Leases, but Boeing conditioned that consent on both: (i) the allowance of its claim in the amount of \$66,500,000; and (ii) RC Aviation's agreement to purchase the Boeing Claim for cash (at a price that has been fully disclosed to this Court under seal and to other parties that are subject to a protective order), which purchase closed on or before September 30, 2004. During the negotiations in early September 2004, RC Aviation did not demand that Boeing sell its claim to RC Aviation. On the contrary, Boeing required the purchase of its claim. Boeing wanted to be paid in cash for its claim, similar to the transaction between RC Aviation and Ansett.

19. The negotiations between the HHI Parties, the Trustee and Boeing led to the execution of a Memorandum of Understanding (the "MOU"), which, among other things, expressly stated that RC Aviation was obligated to purchase the Boeing Claim. This Court approved the MOU by order dated September 27, 2004. At no time did RC Aviation and Boeing agree to "defer" the purchase of the Boeing Claim until after any voting deadline or confirmation hearing relating to the Joint Plan. RC Aviation purchased the Boeing Claim at the request of Boeing, after Boeing had received the Disclosure Statement and with the consent of the Trustee. RC Aviation purchased the Boeing Claim only after this Court entered an order approving the MOU. RC Aviation has not promised to provide any consideration to Boeing that has not been disclosed to this Court.

### **Bankruptcy Code Requirements For Confirmation**

#### **1129(a)(1)**

20. The Joint Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

21. In addition to Administrative Expense Claims and Priority Tax Claims, which need not be classified, the Joint Plan designates 7 Classes of Claims and Interests. Each Class is deemed to be separately classified, and has all rights associated with separate classification under the Bankruptcy Code. The Claims and Interests placed in each Class (or subclass, as applicable) are substantially similar to other Claims and Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Joint Plan, and such Classes do not unfairly discriminate between holders of Claims and Interests. The Joint Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

22. The separate classification of Classes 4 and 5 is justified by the different nature of the underlying claims. The claims classified in Class 5 arise from rejection or modification of long-term aircraft leases, and the Joint Plan Proponents reasonably did not believe that it was possible or prudent to raise the large amount of exit financing required to pay such claims in cash on the Effective Date. The Ansett Claim and the Boeing Claim total nearly \$170 million. DBSI's Claim No. 720 was filed for more than \$23 million, though it was ultimately settled for \$3 million. American Airlines' Claim is for more than \$11 million, a portion of which is a Lease Related Claim.

23. The separate classification of Class 4 and Class 5 is supported by the differences between the claims so classified. Each Class 5 Lease Related Claim is the result of financing arrangements rather than general trade claims. Each claim in Class 5 arises from a multi-year lease agreement for aircraft or

aircraft engines. Each of these lease agreements provided a mechanism for financing millions of dollars of equipment cost relating to the ownership or use of aircraft. Each lessor was entitled to the protections of Bankruptcy Code § 1110. Each lessor asserts millions of dollars in damage claims. A portion of each claim arises from the lessors' loss of future rents as the result of rejection or modification of an aircraft lease. Each lessor is a large, sophisticated financial institution or airline that understood that it was providing aircraft financing to the Debtor over several years.

24. RC Aviation, as the holder of the Ansett Claim and the Boeing Claim, will not receive better treatment than any other holder of a Lease Related Claim.

25. With respect to the RC Aviation Controlled Claims (the Ansett Claim and the Boeing Claim) that are classified in Class 5, RC Aviation committed to elect the 50% Cash/50% HHI Stock option. RC Aviation waived its right to receive the note for 100% of the Ansett Claim and the Boeing Claim, to minimize the debt leverage of the Reorganized Debtor. In addition, if the Debtor does not have sufficient cash to make all payments due on the Effective Date, RC Aviation agreed to accept a short term note in lieu of the 50% cash portion of the distribution that all other Class 5 claimants would receive. This agreement benefits the estate. Under no circumstances will RC Aviation receive under the Joint Plan less than 50% of the Ansett Claim and the Boeing Claim in HHI Common Stock. In the end, RC Aviation will receive either the same treatment as other Class 5 claimholders (50% cash, 50% shares), or, *to insure that the Minimum Cash Balance is satisfied on the Effective Date*, more than 50% in stock and less than 50% in cash. RC Aviation agreed to this provision to give the Reorganized

Debtor maximum flexibility and to assure feasibility of the Joint Plan. If any other member of Class 5 wished to receive the same distribution, the HHI Parties indicated that they would not object. No other member of Class 5 requested such treatment.

26. The Joint Plan specifies that Classes 1, 2 and 3 are unimpaired under the Joint Plan, thereby satisfying section 1123(a)(2) of the Bankruptcy Code.

27. The Joint Plan specifies that Classes 4, 5 and 6 are impaired under the Joint Plan, and that Class 7 may be unimpaired or impaired under the Joint Plan, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.

28. The Joint Plan provides for the same treatment under the Joint Plan for each Claim or Interest in each respective Class unless the holder of a particular Claim or Interest has agreed to a less favorable treatment of such Claim or Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.

29. The Joint Plan and the various documents and agreements set forth in the Joint Plan Appendix provide adequate and proper means for the Joint Plan's implementation, including (i) the revesting of assets in the Reorganized Debtor; (ii) the implementation of the transactions contemplated by the Restructuring Support Agreement; (iii) the deemed adoption and implementation of the Amended and Restated Articles of Incorporation and the Amended and Restated By-Laws; (iv) the identification and retention of the board of directors of the Reorganized Debtor and the officers of the Reorganized Debtor; (v) the continued effectiveness of the Management Compensation Plan, subject to modification by the Board of Directors of the Reorganized Debtor from and after the Effective Date; (vi) the adoption and implementation of all corporate actions necessary to implement the Joint Plan; (vii) the execution of all documents and

implementation of all actions as required with respect to, and in accordance with the Joint Plan provisions with respect to, the transactions contemplated by the New Debt, the New Notes, the Senior Secured Loan Facility, the New Contribution, and the Rights Offering; (viii) the treatment of the RC Aviation Controlled Claims as set forth in the Joint Plan; and (ix) the contribution by HHI to the Debtor of the HHI Common Stock.

30. The New Debt includes, among other things, a \$50,000,000 credit facility composed of (a) a \$25,000,000 revolving credit facility and (b) a \$25,000,000 term loan credit facility (or some combination thereof), which will be secured by a first priority lien on substantially all of the assets of HHI and the Reorganized Debtor pursuant to loan documentation in form and substance satisfactory to the parties thereto. The Senior Secured Loan Facility is part of the New Debt and includes the \$50,000,000 credit facility referenced herein.

31. Section 5.3 of the Joint Plan provides that the Amended and Restated Articles of Incorporation for the Reorganized Debtor shall prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a) of the Bankruptcy Code. Thus, the requirements of section 1123(a)(6) of the Bankruptcy Code are satisfied.

32. Section 5.4 of the Joint Plan contains provisions with respect to the manner of selection of directors and officers of the Reorganized Debtor that are consistent with the interests of creditors, equity security holders, and public policy in accordance with section 1123(a)(7).

33. The Joint Plan's provisions are appropriate and not inconsistent with the applicable provisions of the Bankruptcy Code.



34. The Joint Plan is dated and identifies the entities submitting it as proponents, thereby satisfying Bankruptcy Rule 3016(a).

**1129(a)(2)**

35. The Joint Plan Proponents have complied with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(2) of the Bankruptcy Code. Specifically:

- a. The Debtor is a proper debtor under section 109 of the Bankruptcy Code.
- b. The Joint Plan Proponents have complied with applicable provisions of the Bankruptcy Code, except as otherwise provided or permitted by orders of the Bankruptcy Court.
- c. The Joint Plan Proponents have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Order in transmitting the Joint Plan, the Disclosure Statement, the Ballots, and related documents and notices and in soliciting and tabulating votes on the Joint Plan.

**1129(a)(3)**

36. The Joint Plan Proponents have proposed the Joint Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. The financial accommodations to be extended pursuant to the documents related to the New Debt and the Senior Secured Loan Facility are being extended in good faith, at arms' length, and for legitimate business purposes. The good faith of the Joint Plan Proponents is evident from the facts and records of this Chapter 11 Case, the findings set forth in paragraphs 7 through 19 herein, the Disclosure Statement and the hearings thereon, and the record of the Confirmation Hearing and other proceedings held in this Chapter 11 Case. The Joint Plan was

proposed with the legitimate and honest purpose of maximizing the value of the Debtor's estate and to effectuate a successful reorganization of the Debtor.

**1129(a)(4)**

37. Any payment made or to be made by the Debtor for services or for costs and expenses in or in connection with the Chapter 11 Case, or in connection with the Joint Plan and incident to the Chapter 11 Case, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable, thereby satisfying section 1129(a)(4) of the Bankruptcy Code.

**1129(a)(5)**

38. The Joint Plan Proponents have complied with section 1129(a)(5) of the Bankruptcy Code. The identity and affiliations of the persons proposed to serve as initial directors or officers of the Reorganized Debtor after confirmation of the Joint Plan have been fully disclosed in the Joint Plan and the Confirmation Declarations, and the appointment to, or continuance in, such offices of such persons is consistent with the interests of holders of Claims against and Interests in the Debtor and with public policy. The identity of any insider that will be employed or retained by the Reorganized Debtor and the nature of such insider's compensation have also been fully disclosed.

**1129(a)(6)**

39. The Joint Plan does not provide for any changes in rates established or approved by, or otherwise subject to, any governmental regulatory commission. Thus, section 1129(a)(6) of the Bankruptcy Code is not applicable.

**1129(a)(7)**

40. The Joint Plan satisfies section 1129(a)(7) of the Bankruptcy Code. The liquidation analyses provided in the Disclosure Statement, the Jackson Declaration, and other evidence proffered or adduced at the Confirmation Hearing (a) are persuasive and credible, (b) have not been controverted by other evidence, and (c) establish that each holder of a Claim or Interest in an impaired Class either has accepted the Joint Plan or will receive or retain under the Joint Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date.

**1129(a)(8)**

41. Classes 1, 2, and 3 are conclusively presumed to have accepted the Joint Plan under section 1126(f) of the Bankruptcy Code. Classes 4, 5, 6 and 7 have voted to accept the Joint Plan in accordance with sections 1126(c) and (d) of the Bankruptcy Code.

**1129(a)(9)**

42. The treatment of Administrative Expense Claims and Priority Tax Claims under the Joint Plan satisfies the requirements of Bankruptcy Code section 1129(a)(9).

43. Section 1129(a)(9)(C) governs the manner of distribution for priority tax claims under the Joint Plan and by its terms does not require that the IRS is entitled to exercise setoff rights or prevent the Debtor from obtaining postpetition tax benefits that are otherwise available. The IRS is not entitled to set-off postpetition obligations owed to the Debtor against prepetition obligations owed by the Debtor to the IRS.

44. The Joint Plan Proponents have modified the Joint Plan to provide for the applicable rate of interest to be applied in connection with the payments to be made pursuant to section 1129(a)(9)(C) is five percent (5%); such an interest rate is appropriate based on the applicable market rate of interest and an appropriate risk adjustment, taking into account that the Confirmation Order provides that the Joint Plan will not extinguish the character of the IRS's allowed priority claim under 11 U.S.C. §507(a)(8) and that the IRS will retain all of its nonbankruptcy remedies if the Reorganized Debtor defaults on its payment obligations to the IRS and fails to cure such obligations upon 30 days written notice.

#### **1129(a)(10)**

45. At least one Class of Claims against the Debtor that is impaired under the Joint Plan has accepted the Joint Plan, determined without including any acceptance of the Joint Plan by any insider, thus satisfying the requirements of section 1129(a)(10) of the Bankruptcy Code.

#### **1129(a)(11)**

46. The Debtor's unrestricted cash as of March 31, 2005 is projected to equal approximately \$128,621,000. This number may increase or decrease as the result of actual operations prior to the Effective Date. Because of the requirement of a Minimum Cash Balance of \$70,000,000 as of the Effective Date, the Joint Plan Proponents estimate that the Debtor should have approximately \$58,621,000 in surplus cash ("Surplus Cash") to fund portions of the distributions required on the Effective Date under the Joint Plan. The projected \$58,621,000 in Surplus Cash is found to be a reasonable estimate.

47. The Joint Plan Proponents anticipate that additional funding for the Joint Plan will be provided as follows:

- Certain lenders, including Wells Fargo Foothill, Inc. would provide a \$25,000,000 revolving credit facility (the "Revolver") and a \$25,000,000 term loan credit facility (the "Term Loan") (or some combination thereof), which will be secured by a first priority lien on substantially all of the assets of HHI and the Reorganized Debtor pursuant to loan documentation in form and substance satisfactory to the parties thereto.
- The Joint Plan provides for total debt financing of up to \$150,000,000, including the \$25,000,000 Revolver. The Revolver and the Term Loan would provide \$50,000,000 of that financing. The remaining \$100,000,000 will be provided through a sale of convertible subordinated notes (the "Convertible Notes").
- Certain members of RC Aviation have previously provided a commitment to purchase up to \$60,000,000 of Series E Preferred Stock of Holdings, the proceeds of which will be available to fund the Joint Plan. The proceeds of this preferred stock issuance could provide an alternative source of funds reducing the amount of the Convertible Notes that would need to be sold or, in the alternative, could provide additional cash to fund the remainder of any Effective Date distributions.

48. The Reorganized Debtor's execution of, delivery of, performance of, and compliance with the documents related to the New Debt and the Senior Secured Loan Facility shall not conflict with the terms of the Joint Plan or the Confirmation Order.

49. The anticipated additional sources of funding of the Joint Plan through the Revolver, Term Loan, Convertible Notes and Series E Preferred Stock are reasonably likely to be available.

50. The Joint Plan Proponents estimate that the cash on the Effective Date required to fund payments then due or reserves for payments to claims that have not been fully adjudicated under the Joint Plan is:

- (a) Total administrative priority fees unpaid as of the Effective Date of approximately \$10,000,000;
- (b) Other priority claims of approximately \$44,000;
- (c) General unsecured claims of approximately \$41,000,000, including:
  - (i) \$11,000,000 for American Airlines;
  - (ii) \$3,000,000 for Deutsche Bank Securities, Inc. ;
  - and
  - (iii) \$27,000,000 for other general unsecured claims;
- (d) Convenience claims of approximately \$950,000; and
- (e) A required payment of \$1,500,000 to fund the Reorganized Debtor's D&O Insurance policy.

The Joint Plan Proponents also estimate that the excise tax claim and income tax claim of the IRS ultimately allowed by this Court will be paid over six years from the date of assessment and will aggregate on a conservative basis about \$31,500,000 (which estimate is prior to any reduction relating to the carrying back of certain losses). Other secured claims are estimated in the amount of approximately \$3,200,000 and will be reinstated and paid according to their

original terms. The foregoing projections are found to be reasonable estimates of those claims.

51. Based on the estimated Surplus Cash and distributions due on the Effective Date (excluding distributions on account of the RC Aviation Controlled Claims), the Joint Plan Proponents estimate that the total cash needed to pay all amounts due under the Joint Plan as of the Effective Date, excluding the claims that have been purchased by RC Aviation, is approximately \$53,494,000. Based upon the Debtor's available unrestricted cash, the financing to be available to fund the Joint Plan, and the estimated distributions to be made under the Joint Plan, there is a reasonable likelihood that the Debtor will have sufficient cash to make such Effective Date distributions.

52. After payment of all of the other amounts that must be paid or reserved on the Effective Date, the Joint Plan Proponents estimate that the Debtor should have approximately \$105,127,000 in additional cash available to satisfy the cash payment portion of the claims purchased by RC Aviation of approximately \$87,000,000. This estimate is reasonable.

53. The Ansett Claim and Boeing Claim total approximately \$174,000,000. Under the Joint Plan, RC Aviation has agreed to elect to receive on account of these claims, 50% of its distribution in cash and 50% in HHI Common Stock. It has further agreed that if there is not sufficient cash on hand as of the Effective Date to pay the 50% cash portion of its distribution, RC Aviation will accept the RC Note in lieu of that additional payment. The Reorganized Debtor will have the right to then pay the RC Note in either cash or HHI Common Stock. If it pays the RC Note in HHI Common Stock, the value of that stock will be the

same valuation used for other distributions under the Joint Plan, i.e., \$6.16 per share. If the value of the stock of HHI increases substantially above this level after confirmation of the Joint Plan, the Debtor and HHI will have the option to pay the RC Note in cash (assuming unrestricted cash is above the Minimum Cash Balance required), instead of paying it in HHI Common Stock. This agreement by RC Aviation to accept less favorable treatment than all other unsecured creditors by agreeing to defer a portion of the 50% cash distribution on account of the Ansett Claim and the Boeing Claim provides the Debtor with substantial additional flexibility with respect to the cash required on the Effective Date. The Debtor could defer up to \$87,000,000 in cash distributions that could subsequently be paid in stock of HHI or in cash, at the Debtor's option.

54. Based on the Joint Plan Proponents' estimates of the cash available to make distributions under the Joint Plan and the distributions to be made, and RC Aviation's agreements, there is a reasonable likelihood that the Debtor will have enough cash to satisfy the 50% distribution on account of the Ansett Claim and the Boeing Claim in the amount of \$87,000,000. If it turns out that the Joint Plan Proponent's estimates are incorrect, the Debtor will have a substantial cushion for two reasons: (a) RC Aviation has agreed to accept whatever cash is available on the Effective Date as the initial distribution on account of the Ansett Claim and the Boeing Claim, together with an RC Note that can be paid in HHI Common Stock if insufficient cash is available and (b) the members of RC Aviation have committed to fund a purchase of \$60,000,000 of Series E Preferred Stock of HHI as an additional source of cash if it is needed to fund the Joint Plan. Further, the estimated undrawn portion of the Revolver will



provide the Reorganized Debtor with approximately \$16,000,000 of additional flexibility.

55. Based upon all the evidence, even if the Surplus Cash were substantially lower than that estimated by the Joint Plan Proponents, or the allowed claims were higher than that estimated by the Joint Plan Proponents, there is a reasonable likelihood that the Debtor could still fully fund all obligations due on the Effective Date.

56. The projections ("Projections") annexed to the Confirmation Declarations, the Disclosure Statement, and submitted into evidence were prepared by the Debtor and the Trustee based upon reasonable assumptions and in good faith, and are reasonable. Based upon the Projections, the Debtor should be able to service the debt to be issued to fund the Joint Plan and pay all other expenses.

57. The evidence proffered, adduced, or presented at the Confirmation Hearing (a) is persuasive and credible, (b) has not been controverted by other evidence, and (c) establishes that confirmation of the Joint Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Reorganized Debtor, thus satisfying the requirements of section 1129(a)(11) of the Bankruptcy Code.

### **1129(a)(12)**

58. All fees payable under section 1930 of title 28, United States Code, as determined by the Bankruptcy Court, have been paid or will be paid pursuant to Section 2.1 of the Joint Plan, thus satisfying the requirements of section 1129(a)(12) of the Bankruptcy Code.

### **1129(a)(13)**

59. On and after the Effective Date, subject to the Debtor's collective bargaining agreements, the Reorganized Debtor will continue to pay all "retiree benefits" (as defined in Bankruptcy Code section 1114(a)), at the level established pursuant to Bankruptcy Code section 1114, for the duration of the period the Debtor has obligated themselves to provide such benefits, provided, however, that nothing herein or the Joint Plan shall relieve any third party of providing retiree benefits to the extent such third party has assumed the obligation of the Debtor to do so.

### **1129(b)**

60. Based upon the evidence proffered, adduced, or presented by the Joint Plan Proponents at the Confirmation Hearing, the Joint Plan has been accepted by all impaired Classes and accordingly section 1129(b) of the Bankruptcy Code is not applicable to confirmation of the Joint Plan.

### **IRS Matters**

61. Based upon the this Court's "Findings of Fact and Conclusions Of Law On Objection To Claim For Excise Tax And Penalty" issued in connection with the claims asserted by the Internal Revenue Service ("IRS"), the following

objections of the IRS to confirmation are moot and are overruled: (a) the assertion that the requirement under the Joint Plan that the penalty claim be disallowed is discriminatory; (b) the contention that the Debtor has failed to set aside sufficient funds to cover the penalty claim; and (c) the contention that the Joint Plan is not feasible if the penalty claim were allowed.

62. Under section 1123(a)(5)(G) of the Bankruptcy Code, and applicable law, the IRS is not entitled to payment of an excise tax penalty in the amount of ten percent (10%) based upon the Debtor's failure to make a contribution of \$4.25 million to the ALPA Pension Plan for the 2002 Plan Year, for services provided in the 2002 Plan Year before the commencement of the Chapter 11 Case, because the Debtor has cured the prior default and has made the \$4.25 million contribution. Accordingly, the claim asserted by the IRS for \$425,000 based on the above-referenced contribution is disallowed.

63. This Court has previously ruled that estimation of the IRS priority claim is appropriate and the claim has been so estimated based upon the agreements reached by the parties and the rulings of this Court. The estimation of the IRS claim is permissible under section 502(c) of the Bankruptcy Code and section 8.4 of the Joint Plan is consistent with such estimation and section 502(j) of the Bankruptcy Code which permits reconsideration of claims.

64. Under applicable law and the facts presented, there is no basis to provide for a conditional discharge of the Debtor.

### **Other Matters**

65. The principal purpose of the Joint Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933.

66. The Joint Plan Proponents have amended the Joint Plan to provide that: (i) the injunctions set forth in sections 13.6(a) and 13.6.1(a) of the Joint Plan do not apply to the Department of Transportation, Federal Aviation Authority, the United States Securities and Exchange Commission, and other governmental agencies with respect to the exercise and enforcement of any of their respective regulatory or police rights and powers.

67. The Joint Plan Proponents have modified the Joint Plan to amend sections 13.6(d) and 13.6.1(d) to provide that the existing right of setoff by the United States of mutual prepetition obligations shall not be affected by confirmation of the Joint Plan.

68. The Joint Plan Proponents have modified the Joint Plan to provide for the merger of the Debtor with HHIC, with HHIC to be the surviving entity and to be renamed Hawaiian Airlines, Inc., a Delaware corporation.

69. All modifications to the Joint Plan filed, described in the Response or herein, or announced prior to the conclusion of the Confirmation Hearing constitute technical changes and/or changes with respect to particular Claims, and do not adversely affect or change the treatment of any other Claims or Interests. Accordingly, pursuant to Bankruptcy Rule 3019, these modifications do not require additional disclosure under Bankruptcy Code section 1125 or resolicitation of votes under Bankruptcy Code section 1126, nor do they require that holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Joint Plan.

70. All of the Conditions to Confirmation set forth in Section 10.1 of the Joint Plan have been satisfied. Among those conditions is the requirement in section 10.1.3 that collective bargaining agreements satisfactory to the Trustee and

the HHI Parties have been agreed upon. Based upon the Trustee's agreement with the Debtor's unions on modifications to the Debtor's collective bargaining agreements and the HHI Parties' consent to such modifications, the condition in section 10.1.3 of the Joint Plan is satisfied.

71. Based on the record before the Bankruptcy Court in this Chapter 11 Case, the Joint Plan Proponents and the Debtor and their respective directors, officers, employees, shareholders, members, agents, advisors, accountants, investment bankers, consultants, attorneys, agents, and other representatives have acted in "good faith" within the meaning of Bankruptcy Code section 1125(e) in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all their respective activities relating to the solicitation of acceptances to the Joint Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code, based on the unique circumstances of this Chapter 11 Case, including the facts that creditors will be paid in full, the Joint Plan has been accepted almost unanimously, and the stockholders consent to all of the Joint Plan's provisions, the narrowly tailored exculpation provisions set forth in Section 13.9 of the Joint Plan. The protections afforded by section 1125(e) of the Bankruptcy Code and the tailored exculpation provisions set forth in Section 13.9 of the Joint Plan are in the best interest of the estate, appropriate and reasonable based upon the facts presented, and do not violate the section 524(e) as that section, by its terms, does not apply to application of section 1125(e) to the facts presented, or to Section 13.9 of the Joint Plan.

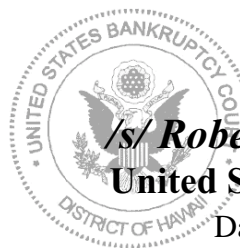
72. Article VI of the Joint Plan governing the assumption and rejection of executory contracts and unexpired leases satisfies the requirements of section 365(b) of the Bankruptcy Code.

73. The deadlines set for filing proofs of claim or requests for payment of Administrative Expense Claims, Professional Fee Claims and Tax Administrative Claims, set forth in the Joint Plan or the Confirmation Order are reasonable and appropriate.

74. The Joint Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

75. The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XII of the Joint Plan and Bankruptcy Code section 1142; provided, however, that the Bankruptcy Court shall not retain jurisdiction to decide any issues, matters, rights or remedies arising under or relating to the New Debt, the New Notes, the Senior Secured Loan Facility, or the Series E Preferred Stock. All such issues, matters, rights, and remedies shall be governed as provided, and subject to the jurisdiction, venue, and choice of law provisions set forth, in the documents relating thereto, and applicable nonbankruptcy law.

Dated: May \_\_\_\_, 2005  
Honolulu, Hawaii



**/s/ Robert J. Faris**

**United States Bankruptcy Judge**

Dated: May 18, 2005

---

HONORABLE ROBERT J. FARIS  
UNITED STATES BANKRUPTCY JUDGE

# EXHIBIT A

**EXHIBIT A**  
**OBJECTIONS OR PURPORTED OBJECTIONS TO CONFIRMATION OF THE**  
**JOINT PLAN**

<b>DATES FILED</b>	<b>DOCKET NOS.</b>	<b>DESCRIPTIONS OF OBJECTIONS</b>
12/14/04	3924	Notice of Rejection of Second Amended Joint Plan of Reorganization. Filed by Carol K. Muranaka on behalf of United States of America (IRS).
01/04/2005	4042	Objection to Confirmation of the Joint Chapter 11 Plan of Reorganization of Joshua Gotbaum, as Chapter 11 Trustee for Hawaiian Airlines, Inc., the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc., and RC Aviation LLC. Filed by Robert C. Konop.
01/04/2005	4049	International Association of Machinists and Aerospace Workers') to Confirmation of The Second Amended Joint Plan of Reorganization of Joshua Gotbaum, As Chapter 11 Trustee For Hawaiian Airlines, Inc., The Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC Dated as of October 4, 2004
01/04/2005	4052	Objection to Confirmation of Second Amended Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, Hawaiian Holdings, Inc., HHIC, Inc., and RC Aviation LLC file by the U.S. Trustee
01/04/2005	4054	Objection to Joint Plan of Reorganization filed by Wayne H., Krogbin
01/04/2005	4055	Objection of Deutsche Bank Securities, Inc. to Confirmation of the Second Amended Joint Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC Dated as of October 4, 2004  <b>Objection withdrawn pursuant to Stipulation approved by Order entered January 18, 2005. [Docket No. 4189]</b>
01/04/2005	4057	Objections of the United States to the Second Amended Joint Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC Dated as of October 4, 2004. Filed by the IRS
01/04/2005	4090	Department of Taxation, State of Hawaii's Joinder in United States' Objections to Confirmation of the Second Amended Joint Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC Dated as of October 4, 2004



<b>DATES FILED</b>	<b>DOCKET NOS.</b>	<b>DESCRIPTIONS OF OBJECTIONS</b>
01/04/2005	4091	Amended Department of Taxation, State of Hawaii's Joinder in United States' Objections to Confirmation of the Second Amended Joint Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC Dated as of October 4, 2004
01/10/2005	4112	Objection of the Air Line Pilots Association to Confirmation of the Joint Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC
01/10/2005	4113	Notice of Errata to Objection of the Air Line Pilots Association to Confirmation of the Joint Plan of Reorganization filed by Chapter 11 Trustee, the Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc. and RC Aviation LLC
1/25/05	4237	International Association of Machinists and Aerospace Workers' Renewed Objection to Confirmation of the Second Amended Joint Plan of Reorganization of Joshua Gotbaum, as Chapter 11 Trustee for Hawaiian Airlines, Inc., The Official Committee of Unsecured Creditors, HHIC, Inc., Hawaiian Holdings, Inc., and RC Aviation LLC Dated as of October 4, 2004
2/10/05	4371	Rejection of Confirmation Plan of Hawaiian Airlines, Inc.'s Reorganization. Filed by John and Gloria Magann